

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	4:94CR3000
	)	
Plaintiff,	)	<b>MEMORANDUM</b>
vs.	)	<b>AND ORDER</b>
	)	
GREGORY T. WALSH,	)	
	)	
Defendant.	)	

The Clerk of the United States Court of Appeals for the Eighth Circuit has forwarded to this court “for processing” certain documents that the Court of Appeals received from Defendant on May 16, 2005. (Filing 93.) Defendant previously submitted identical documents to this court, which were filed on April 25, 2005, and docketed as: (1) a motion pursuant to 28 U.S.C. § 2255 to vacate, set aside, or correct the sentence of a person in federal custody (filing 86); (2) a motion to proceed in forma pauperis (filing 87); (3) a motion to appoint counsel (filing 88); (4) a verifying affidavit (filing 89); and (5) a certificate of service (filing 90).

The undersigned United States District Judge conducted an initial review of Defendant’s filing and determined that no relief is available to Defendant under 28 U.S.C. § 2255 (or under the Nebraska post-conviction relief act that Defendant cited in support of the motion). Because it did not appear that Defendant is in custody under the sentence that is being challenged, his filing was instead treated as a petition for a writ of coram nobis, and as such was denied on the merits. Defendant’s motions to proceed in forma pauperis and for appointment of counsel were also denied.

The Clerk of the Court of Appeals has characterized Defendant’s resubmitted documents as “a notice of appeal together with a motion for leave to proceed on

appeal in forma pauperis.” (Filing 93.) Defendant was previously determined to be financially unable to obtain an adequate defense in this criminal case, and will be permitted to proceed in forma pauperis on appeal. See Fed. R. App. P. 24(3).

Accordingly,

IT IS ORDERED that:

1. Defendant is permitted to proceed on appeal in forma pauperis.
2. The Clerk of the United States District Court for the District of Nebraska shall process Defendant’s notice of appeal to the United States Court of Appeals for the Eighth Circuit (filing 93), and shall forward a copy of this memorandum and order to the Court of Appeals, along with copies of the court’s May 10, 2005 memorandum and order (filing 91) and judgment (filing 92).

DATED: June 7, 2005.

BY THE COURT:

s/ Richard G. Kopf  
United States District Judge